



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

EAG/FTB
F. #2018R02344

*271 Cadman Plaza East
Brooklyn, New York 11201*

February 8, 2021

By FedEx and ECF

Marshall L. Miller, Esq.
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350 Fifth Avenue, Suite 7110
New York, NY 10118

Re: United States v. Bryan Cho
Criminal Docket No. 21-040 (AMD)

Dear Counsel:

Enclosed please find the government's discovery in accordance with Rule 16 of the Federal Rules of Criminal Procedure. As discussed, the government expects to make additional productions on a rolling basis. The government also requests reciprocal discovery from the defendant.

I. The Government's Discovery

A. Statements of the Defendant

Reports documenting statements made by the defendant to federal agents are enclosed and Bates labeled CHO000026690 and CHO000026862– CHO000026876.

B. The Defendant's Criminal History

The government is unaware of any prior criminal history for the defendant; the results of a query of law enforcement databases pertaining to the defendant is enclosed and Bates labeled CHO000026877.

C. Documents and Tangible Objects

Enclosed are a number of documents and materials that the government has obtained from various third parties. The relevant custodians are identified below along with the

corresponding Bates ranges for the documents and materials provided.¹ All of the documents and materials described in this subsection C are being produced pursuant to our agreement that you will not further disseminate them (other than to your client), subject to the subsequent entry of an applicable protective order.

Custodian	Bates Range
American Airlines	CHO-000005607 - CHO-000005612
American Express	CHO-000000006 - CHO-000000009
Apple	CHO-000000010 - CHO-000000011; CHO-000005615 - CHO-000005617
Asiana Air	CHO-000005613 - CHO-000005614
AT&T	CHO-000000012 - CHO-000001619; CHO-000005618 - CHO-000017521
Bank of America	CHO-000001620 - CHO-000004841
Barclays Bank of Delaware	CHO-000004842 - CHO-000005023
Board Packager	CHO-000017522 - CHO-000017527
Capital One	CHO-000005024 - CHO-000005566
Charter Communications	CHO-000017529 - CHO-000017533
Citibank	CHO-000005567 - CHO-000005598
Comcast	CHO-000005599 - CHO-000005602
DropBox	CHO-000017534 - CHO-000017535
Edgewater Mortgage	CHO-000017536 - CHO-000023293
Englewood Hospital	CHO000026890 - CHO000026893
Experian	CHO-000023294 - CHO-000023299
Facebook	CHO-000023340 - CHO-000023350
Federal Reserve Bank of New York	CHO-000023351 - CHO-000024458
Frontier Communications	CHO-000024459 - CHO-000024459
Go Daddy	GD000001 - GD000051
Google	CHO-000024460 - CHO-000024483
HSBC	CHO-000026594 - CHO-000026689
IBM	CHO-000024484 - CHO-000024509
Interactive Brokers	CHO-000024510 - CHO-000024519
JP Morgan Chase	CHO-000024520 - CHO-000026013
Korean Air	CHO-000026014 - CHO-000026025
Manhattan Mini Storage	CHO-000026026 - CHO-000026044
MD Squared	CHO-000026045 - CHO-000026152
Mercedes Benz	CHO-000026153 - CHO-000026219
Mercedes Benz Manhattan	CHO-000026220 - CHO-000026278
Microsoft	CHO-000026279 - CHO-000026280
New Jersey Motor Vehicle Commission	CHO-000026281 - CHO-000026291

¹ Please note that Bates numbers CHO000005603 – CHO000005606; CHO000017528; and CHO000026878 have been intentionally omitted.

Custodian	Bates Range
Ritz-Carlton	CHO-000026292 - CHO-000026303
Scott Segal	CHO-000026304 - CHO-000026358
Skype	CHO-000026359 - CHO-000026364
Standard Chartered Bank	CHO-000026365 - CHO-000026370
Stanford Federal Credit Union	CHO-000026371 - CHO-000026470
The Clearing House Payments Company	CHO-000026471 - CHO-000026482
T-Mobile	CHO-000026483 - CHO-000026490
Transunion	CHO-000026491 - CHO-000026505
United Airlines	CHO-000026506 - CHO-000026554
Verizon	CHO-000026555 - CHO-000026563
Washington Dc Dep't of health	CHO-000026564 - CHO-000026565
Whats App	CHO-000026566 - CHO-000026567
Woori Bank	CHO-000026568 - CHO-000026593

In addition, pursuant to your request, the government is also producing the metadata for certain images seized from an electronic device (an iPhone 8) obtained during the course of the government's investigation. The metadata and corresponding images have been Bates labeled CHO000026879 – CHO000026889. Also enclosed are tax return information (Bates labeled CHO000026733 – CHO000026861); OGE 450 disclosure forms (Bates labeled CHO000026691 – CHO000026732); and certain email correspondence (Bates labeled CHO000000001 – CHO000000005).

You may examine the physical evidence discoverable under Rule 16, including original documents, by calling me to arrange a mutually convenient time.

D. Reports of Examinations and Tests

The government will provide you with copies of any additional reports of examinations or tests in this case as they become available.

E. Expert Witnesses

The government will comply with Fed. R. Crim. P. 16(a)(1)(G) and Fed. R. Evid. 702, 703 and 705 and notify you in a timely fashion of any expert that the government intends to call at trial and provide you with a summary of the expert's opinion.

The identity, qualifications, and bases for the conclusions of each expert will be provided to you when they become available.

F. Brady Material

The government is not aware of any exculpatory material regarding the defendant. The government understands and will comply with its continuing obligation to produce exculpatory material as defined by Brady v. Maryland, 373 U.S. 83 (1963), and its progeny.

Before trial, the government will furnish materials discoverable pursuant to Title 18, United States Code, Section 3500, as well as impeachment materials. See Giglio v. United States, 405 U.S. 150 (1972).

G. Other Crimes, Wrongs or Acts

The government will provide the defendant with reasonable notice in advance of trial if it intends to offer any material under Fed. R. Evid. 404(b).

II. The Defendant's Required Disclosures

The government hereby requests reciprocal discovery under Rule 16(b) of the Federal Rules of Criminal Procedure. The government requests that the defendant allow inspection and copying of (1) any books, papers, documents, data, photographs, tapes, tangible objects, or copies or portions thereof, that are in the defendant's possession, custody or control, and that the defendant intends to introduce as evidence or otherwise rely on at trial, and (2) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, that are in the defendant's possession, custody or control, and that the defendant intends to introduce as evidence or otherwise rely upon at trial, or that were prepared by a witness whom the defendant intends to call at trial.

The government also requests that the defendant disclose prior statements of witnesses who will be called by the defendant to testify. See Fed. R. Crim. P. 26.2. In order to avoid unnecessary delays, the government requests that the defendant have copies of those statements available for production to the government no later than the commencement of trial.

The government also requests that the defendant disclose a written summary of testimony that the defendant intends to use as evidence at trial under Rules 702, 703, and 705 of the Federal Rules of Evidence. The summary should describe the opinions of the witnesses, the bases and reasons for the opinions, and the qualification of the witnesses.

III. Emails Sent and Received by Defendants Incarcerated at a Bureau of Prisons Facility

The government may request that the Bureau of Prisons ("BOP") produce to the government emails sent and received by the defendant during his period of incarceration at a BOP facility (collectively, "BOP email communications"). While it is the government's position that BOP email communications, including those between the defendant and his attorneys and other legal assistants and paralegals on their staff, are not privileged communications, in most instances, the government will request that the BOP exclude from any production communications between the defendant and his attorneys and other legal assistants and paralegals on their staff, if you provide the full email addresses for such attorneys, legal assistants and paralegals by February 12, 2021. To enable this process, the government requests that you send an email to the undersigned Assistant U.S. Attorneys with the list of email addresses in the body of the email. If you subsequently wish to provide an email address for an additional attorney, legal assistant or paralegal or change any of the previously-provided email addresses, you should send an email with the complete list of email addresses, including email addresses that remain unchanged, in the body of the email.

IV. Future Discussions

If you have any questions or requests regarding further discovery or a disposition of this matter, please do not hesitate to contact me.

Please be advised that, pursuant to the policy of the Office concerning plea offers and negotiations, no plea offer is effective unless and until made in writing and signed by authorized representatives of the Office. In particular, any discussion regarding the pretrial disposition of a matter that is not reduced to writing and signed by authorized representatives of the Office cannot and does not constitute a “formal offer” or a “plea offer,” as those terms are used in Lafler v. Cooper, 132 S. Ct. 1376 (2012), and Missouri v. Frye, 132 S. Ct. 1399 (2012).

Very truly yours,

SETH D. DUCHARME
Acting United States Attorney

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Enclosures

cc: Clerk of the Court (AMD) (by ECF) (without enclosures)